

SENATE BILL 889

E2

2lr3068
CF HB 349

By: **Senator Stone**

Introduced and read first time: February 3, 2012

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 20, 2012

CHAPTER _____

1 AN ACT concerning

2 **Criminal Law – Misdemeanor Possession of Child Pornography – Statute of**
3 **Limitations**

4 FOR the purpose of altering the period of time within which a prosecution for
5 misdemeanor possession of child pornography must be instituted after the
6 offense was committed; and generally relating to the statute of limitations for
7 misdemeanor possession of child pornography.

8 BY repealing and reenacting, without amendments,
9 Article – Courts and Judicial Proceedings
10 Section 5–106(a)
11 Annotated Code of Maryland
12 (2006 Replacement Volume and 2011 Supplement)

13 BY adding to
14 Article – Courts and Judicial Proceedings
15 Section 5–106(bb)
16 Annotated Code of Maryland
17 (2006 Replacement Volume and 2011 Supplement)

18 BY repealing and reenacting, without amendments,
19 Article – Criminal Law
20 Section 11–208
21 Annotated Code of Maryland
22 (2002 Volume and 2011 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article – Courts and Judicial Proceedings**

4 5–106.

5 (a) Except as provided by this section and § 1–303 of the Environment
6 Article, a prosecution for a misdemeanor shall be instituted within 1 year after the
7 offense was committed.

8 **(BB) A PROSECUTION FOR A MISDEMEANOR OFFENSE UNDER § 11–208**
9 **OF THE CRIMINAL LAW ARTICLE SHALL BE INSTITUTED WITHIN ~~3~~ 2 YEARS**
10 **AFTER THE OFFENSE WAS COMMITTED.**

11 **Article – Criminal Law**

12 11–208.

13 (a) A person may not knowingly possess and intentionally retain a film,
14 videotape, photograph, or other visual representation showing an actual child under
15 the age of 16 years:

- 16 (1) engaged as a subject of sadomasochistic abuse;
- 17 (2) engaged in sexual conduct; or
- 18 (3) in a state of sexual excitement.

19 (b) (1) Except as provided in paragraph (2) of this subsection, a person
20 who violates this section is guilty of a misdemeanor and on conviction is subject to
21 imprisonment not exceeding 5 years or a fine not exceeding \$2,500 or both.

22 (2) A person who violates this section, having previously been
23 convicted under this section, is guilty of a felony and on conviction is subject to
24 imprisonment not exceeding 10 years or a fine not exceeding \$10,000 or both.

25 (c) Nothing in this section may be construed to prohibit a parent from
26 possessing visual representations of the parent's own child in the nude unless the
27 visual representations show the child engaged:

- 28 (1) as a subject of sadomasochistic abuse; or
- 29 (2) in sexual conduct and in a state of sexual excitement.

1 (d) It is an affirmative defense to a charge of violating this section that the
2 person promptly and in good faith:

3 (1) took reasonable steps to destroy each visual representation; or

4 (2) reported the matter to a law enforcement agency.

5 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
6 October 1, 2012.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.